



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101

Martin O'Malley  
Governor

Shari T. Wilson  
Secretary

Anthony G. Brown  
Lieutenant Governor

Robert M. Summers, Ph.D.  
Deputy Secretary

February 12, 2009

Maggie McIntosh, Chairperson  
Members, House Environmental Matters Committee  
6 Bladen Street  
Annapolis, MD 21403

Re: Letter of Concern, HB 148 - Calvert County – Reimbursement of Costs – Authority

Dear Chairperson McIntosh & Members:

HB 148 - Calvert County – Reimbursement of Costs – Authority, under Article 25, “County Commissioners,” would authorize the County Commissioners of Calvert County to seek reimbursement of costs incurred in the cleanup of hazardous materials in the County from fines collected by the Department and deposited into the State Hazardous Substance Control Fund (Fund) for violations of Title 7 of the Environment Article, “Hazardous Materials and Hazardous Substances.” Although the Department agrees that persons responsible for causing hazardous materials incidents in violation of regulatory requirements should bear the cleanup costs incurred by State and county governments, the Department has the following concerns with HB 148.

The Department has existing authority to recover expenditures from its oil and hazardous substance control funds for remediation of an oil spill or the release of a hazardous substance. Similarly, local government volunteer fire companies, rescue squads, or ambulance companies and paid fire companies and rescue squads (local government responders) have existing authority under Title 3, Subtitle 11 of the Courts and Judicial Proceedings Article to seek reimbursement from a motor carrier or person in control of a facility at fault for hazardous material emergency response, containment, cleanup and abatement expenses incurred as a result of an incident requiring emergency response.

Under § 7-221 of the Environment Article, subject to a written memorandum of understanding between the Department and the local government responders, any costs incurred by the local government responders for response activities that are not duplicative of activities performed by the Department may be reimbursed to the local government responders from the Fund. The Department may then seek reimbursement of these expenditures from the person responsible for the release.

This legislation only allows for the County Commissioners to seek reimbursement to the extent of any fines that may be collected. The obligation to reimburse government agencies for their costs of investigating and assessing pollution incidents is a separate, legal obligation on the part of polluters in addition to paying penalties. Penalties are assessed based on the type and severity of the violation and do not take into account



programmatic costs of responding to pollution events. Under existing oil pollution and hazardous substances laws, the Department is entitled to seek recovery of costs related to investigation and cleanup of pollution, in addition to penalties.

Entering into a memorandum of understanding with the Department that provides for cost recovery is the more appropriate means for Counties to recover their costs. Calvert County currently does not have a memorandum of understanding with the Department for these activities. The Department welcomes the opportunity to develop a memorandum of understanding with the County to address the intent of this bill.

Thank you for your consideration of these issues as you review HB 148. Please contact me or Lisa Nissley, MDE Legislative Liaison, at 410-260-6301 if you would like to discuss any of these issues further.

Sincerely,



Shari T. Wilson  
Secretary

Cc: Heather Barthel, Director, MDE Legislation and Policy  
Lisa Nissley, Legislative Liaison  
Horacio Tablada, Director, MDE Waste Management Administration

